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# Facsimile cover sheet

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Message: Sorry, I should have sent this yesterday, but had to rush out, then forgot. We now have a Japanese & a Dutch. Michael & Trish (Canberra) are trying to get an Australian & I should get a Canadian name soon.

Carmel

PET members

Portugal

Carlos Encarnacáo, PSD
Antonio C.A. de Sousa Lara, PSD
Eduardo Ribeiro Pereira, Socialist Party
Herculano Pombo, Greens
Rui José Santos Silva, Democratic Renewal Party
Maria Manuela Aguiar, Vice President of Assembly, PSD

*Parliamentarians for East Timor*
*244A Upper Street, London N1 1RU*

**Briefing Paper for the meeting between representatives of Parliamentarians for East Timor and the United Nations Secretary General, Monday March 25, 1991 at 10.30.**

*Founder Members*
*Satsuki Eda MHR (Japan), Tony Lamb MHR (Australia), Lord Avebury (UK)*
*Secretary: Carmel Budiardjo*

**Introduction**

Whilst the United Nations have always taken a firm stand against the forcible acquisition of territory, recent events in the Gulf show that firm action can be taken against aggressors, and in future this example may help to deter any state considering the use of military force against a smaller neighbour.

In the meanwhile, these events also focus the attention of the international community on past acts of aggression which were not dealt with so firmly at the time. It is to be hoped that the principles established at a high cost in human lives and destruction of the environment in Kuwait will be applied equally to all other instances of the kind, including particularly East Timor.

**UN Responsibility towards East Timor.**

The United Nations Charter explicitly prohibits the use of force to acquire territory, and many General Assembly Resolutions have reinforced these provisions. Article 2 paragraph 4 provides that

> *...states should.... refrain in their international relations from the threat or use of force against the territorial integrity or national independence of any state or in any other manner inconsistent with the purpose of the United Nations.*

The Security Council adopted two resolutions on East Timor: in Resolution 384 of December 22, 1975 it called on the Government of Indonesia to withdraw its forces from East Timor without delay, and in Resolution 389 of April 22, 1976 it repeated this demand, adding a call to member states to cooperate with the United Nations in facilitating the decolonisation of the territory. This wording implies that a plebiscite or vote of an assembly elected under universal adult franchise should be held in the territory, as the United Nations has insisted in all other cases of decolonisation, in accordance with General Assembly resolutions 1514 and 1541 of 1960.

It is essential to note that these Resolutions of the Security Council have not been rescinded and they remain in force.

**Resolution 37/30 of November 1982**

Resolution 37/30 of the General Assembly, a copy of which is attached, requested the Secretary General to initiate consultations with 'all parties directly concerned' with a view to exploring avenues for achieving a comprehensive settlement of the problem.

Indonesia did not accept this Resolution, but the Secretary General had already embarked on consultations with Indonesia and Portugal on his own initiative, and these have continued ever since. The meaning of the phrase 'all parties directly concerned' has never been construed, and when the Secretary General has been invited to agree that it clearly includes the people of East Timor, he has avoided giving a direct answer. Recently, however, the Special Representative for Humanitarian Affairs in South East Asia of the Secretary General wrote that:

> *... the United Nations continues to recognise the Government of Portugal as the administering Power of the territory, and has never designated any other legitimate spokesman for the East Timorese people'.*

An approach has been made to the Portuguese authorities to discover whether this point had been raised in their discussions with the Secretary General, and if so, whether they had made any suggestions to him about the methods he might adopt for consultation with the people of East Timor. It is hoped that some clarification of this point will have been received before the meeting next Monday.

For the last four years, the discussions between the authorities of Portugal and Indonesia under the auspices of the Secretary General appear to have concentrated exclusively on a proposed visit by Portuguese Parliamentarians to East Timor which the Secretary General says

> *could help to create an atmosphere conducive to achieving a comprehensive and internationally acceptable solution*

No other methods of achieving such a solution are mentioned in the latest report of the Secretary General, reference A/45/507 of September 17, 1990.

**Consultations with the people of East Timor.**

The only time free elections have ever been held in East Timor was in March 1975 when, in the local elections held by the Decolonisation /Commission, Fretilin gained 55% of the votes on a platform calling for independence. The UDT, which also advocated independence, accounted for almost all the remainder, while Apodeti, which called for integration with Indonesia, attracted a negligible following. Both Fretilin and UDT specifically called for these elections to be held in compliance with General Assembly Resolution 1514, and because the process of decolonisation was later aborted, the results should be treated as the only valid test of the opinion of the people of East Timor until a plebiscite is held.

Although the Indonesians claim that their occupation was validated by the decision of the 'People's Assembly' in May 1976, the members of this body were all selected by the agressors. The General Assembly in paragraph 5 of their Resolution 31/33 of December 1976 rejected

> *'the claim that East Timor has been integrated into Indonesia inasmuch as the people of the territory have not been able to exercise freely their right to self-determination and independence'.*

Evidence that the people of East Timor still favour independence comes from several quarters. The titular Bishop of Loriem, Mgr Belo, in his letter to the Secretary General of February 6, 1989, emphasised that

> *the people must be allowed to express their views on their future through a plebiscite*

and whenever an opportunity arises, for example during the visits to East Timor of His Holiness the Pope in October 1989 and the US Ambassador to Jakarta in January 1990, the people of East Timor have demonstrated in favour of independence.

Xanana Gusmao, commander of the armed forces of the Maubere people, has for many years indicated his willingness to meet the Secretary General or his Representative at any convenient location, and this was conveyed to the Secretary General in 1986, without eliciting any response. More recently, Xanana has called for negotiations between representatives of the Maubere resistance and the Indonesian authorities, subject to a ceasefire, and with no preconditions. In a letter of November 1990, made public during the visit of the Australian Parliamentary delegation in February 1991, he asked [illegible] Senator Gareth Evans, the Australian Foreign Minister, who happened to be in Bali at the time, refused, and called on the armed forces of the Maubere people to surrender.

The Timor Gap Treaty.

In December 1989, Australia and Indonesia signed a treaty purporting to divide the seabed resources in the Timor Gap between East Timor and Australia. This was denounced at a press conference held in Canberra early in January 1990 by Australian and British representatives of Parliamentarians for East Timor, and a legal opinion was given to PET by leading international lawyers, that the treaty may be unlawful.

This matter has now been placed before the International Court of Justice by the Portuguese Government, in a case against the Australian Government. A copy of the United Nations press release on this matter is attached.

The team of international lawyers who gave the opinion referred to above have now offered their services to the Portuguese authorities, via PET.

**Matters to be raised by the delegation**

1. The United Nations need to ensure compliance with Resolutions 384 and 389 of the Security Council, calling for the withdrawal of the Indonesian occupation forces.

2. The United Nations need to conduct discussions with genuine representatives of the people of East Timor. With the best will in the world, the Portuguese Government is not competent to speak for the people, when it has had no presence in the territory for 16 years. The Security Council listened to the representatives of the people of East Timor before passing their two Resolutions, as did the General Assembly prior to seven of the eight Resolutions on the subject of East Timor. Only in the case of the first General Assembly Resolution, of December 12, 1975 did the United Nations arrive at a decision solely on the basis of a Portuguese submission, and that was at the height of the invasion, when attendance by East Timorese representatives would have been impracticable. The Secretary General should follow these precedents.

3. The United Nations need to respond positively to the letter from Bishop Belo, and to any other initiatives from persons concerned with upholding the United Nations Charter and the provisions of Article 1 of the International Covenant on Civil and Political Rights. The failure to make any significant progress since Resolution 37/30 was passed almost nine years ago may well be due to the narrow circle of those allowed to participate in these consultations, and the absence of any pressure on Indonesia to comply with the rules of international law.

4. Whilst the question of the Timor Gap Treaty may be treated as sub judice by the Secretary General, it may be worth mentioning as an example of the danger that states and commercial interests may preempt the decisions of the United Nations.

5. The failure of the international community to resolve the East Timor question in accordance with the principle of self-determination and in accordance with the UN Charter results in the continuation of gross and persistent violations of human rights in East Timor. A report by Amnesty International in February 1991 details the extent of abuses, and copies will be available to members of the delegation. A typescript of a forthcoming report to be published by TAPOL detailing an alarming rise in the level of military operations in East Timor, in defiance of the Security Council resolutions, will also be available

Eric Avebury
March 16, 1991